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SUBJECT: THE SEVENTH LEGISLATIVE PERIOD OF THE WEST

GERMAN BUNDESTAG (1972-1976)

BEGIN SUMMARY: IN TERMS OF THE TOTAL NUMBER OF BILLS
PASSED IN THE FOUR YEARS. THE 7TH BUNDESTAG WAS IMPRES-
SIVE. SIX HUNDRED AND FIFTY EIGHT BILLS WERE INTRO-
DUCED, OF WHICH 515 BECAME LAW. IMPORTANT GOVERNMENT-
SPONSORED LAWS PASSED IN THE 7TH LEGISLATIVE PERIOD
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WERE: TAX REFORM, UNIVERSITY REFORM, NEW DIVORCE AND

MARRIAGE LAWS, AND THE INDUSTRIAL CO-DETERMINATION LAW. EIGHT KEY BILLS WERE KILLED BY THE BUNDES RAT, FOUR OF WHICH WERE VETOED BY THE CDU/CSU OPPOSITION. THEY WERE A BILL GOVERNING EMPLOYMENT OF RADICALS IN THE CIVIL SERVICE, INCREASE IN THE TURN-OVER TAX AND A VOCATIONAL TRAINING BILL. THERE WAS ALSO ONE BILL (ABORTION REFORM), WHICH WAS PASSED BY THE BUNDESTAG OVER A BUNDES RAT VETO AND SIGNED INTO LAW BY THE FEDERAL PRESIDENT, BUT LATER WAS DECLARED UNCONSTITUTIONAL BY THE FEDERAL CONSTITUTIONAL COURT.

IN LOOKING BACK OVER THE 7TH LEGISLATIVE PERIOD OF THE GERMAN BUNDESTAG, IT IS CLEAR THAT MANY OF THE HIGH EXPECTATIONS HELD BY SOCIAL DEMOCRATIC AND LIBERAL REFORMERS, FOLLOWING THE BRANDT/SCHEEL VICTORY IN 1972, WERE NOT REALIZED. TWO INTERNAL GOVERNMENT RESTRAINTS OPERATED AGAINST THE REFORMERS: (A) KEY LIBERALS IN THE CABINET AND FRAKTION ACTED AS A MODERATING INFLUENCE ON REFORM LEGISLATION BEFORE THE BILLS WERE INTRODUCED IN THE BUNDESTAG, AND (B) THE OPPOSITION PARTIES EFFECTIVELY UTILIZED THEIR MAJORITY IN THE BUNDES RAT TO WATER DOWN MUCH OF THE COALITION-SPONSORED LEGISLATION. EXTERNALLY, ECONOMIC RECESSION, CDU/CSU VICTORIES IN STATE ELECTIONS, AND THE REPLACEMENT OF BRANDT AS CHANCELLOR BY HELMUT SCHMIDT MILITATED AGAINST WIDE-SCALE SOCIAL EXPERIMENTATION.

AS OF NOW, THERE ARE NO BUNDESTAG SESSIONS SCHEDULED BEFORE THE 7TH LEGISLATIVE PERIOD EXPIRES AT MIDNIGHT, DECEMBER 13, 1976. IT IS LIKELY, HOWEVER, THAT THERE WILL BE AT LEAST ONE MORE SESSION TO DEAL WITH 11 RELATIVELY MINOR BILLS, WHICH HAVE BEEN REPORTED OUT OF THE JOINT CONFERENCE COMMITTEE, AND TO PASS NEW LEGISLATION ALTERING THE SALARIES AND TAX STATUS OF BUNDESTAG DEPUTIES. IT IS UNLIKELY, HOWEVER, THAT THE BUNDESTAG WILL MEET IN SPECIAL SESSION UNTIL AFTER THE OCTOBER 3 ELECTION. IN ORDER TO AVOID SUCH LONG LAME DUCK PERIODS IN THE FUTURE, A CONSTITUTIONAL AMENDMENT WAS PASSED, REDUCING THE PERIOD TO 30 DAYS BETWEEN A BUNDESTAG ELECTION AND THE CONVENING OF THE FIRST SES-

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SION OF THE NEW BUNDESTAG. THE NEW LAW WILL COME INTO EFFECT WHEN THE 9TH BUNDESTAG IS ELECTED. END SUMMARY.

1. WHEN THE FIRST SESSION OF THE 7TH WEST GERMAN BUNDESTAG MET ON DECEMBER 13, 1972, THE EXPECTATIONS OF THE SOCIAL REFORMERS WERE EXTREMELY HIGH. WILLY BRANDT HAD LED THE SOCIAL DEMOCRATS TO A SMASHING VICTORY. THE SPD/FDP MAJORITY IN THE BUNDESTAG OF 46 SEATS APPEARED

TO PROVIDE A SOLID BASE FOR SWEEPING REFORM LEGISLATION.
SPIRITS WERE HIGH AND THE INSTABILITY CAUSED BY THE
STRING OF DEFECTS TO THE CDU, WHICH ERODED THE SLIM
SPD/FDP MAJORITY IN THE BUNDESTAG, WAS NO LONGER A
THREAT.

2. HOWEVER, A NUMBER OF EXTERNAL FACTORS WERE TO COME
TOGETHER WHICH WOULD PLACE NEW RESTRAINTS ON LEGIS-
LATING SWEEPING REFORMS. THESE FACTORS INCLUDED AN
ECONOMIC RECESSION, WHICH PLACED COSTLY REFORMS OUT OF
REACH, AND A STRING OF CONSERVATIVE VICTORIES IN LAENDER
ELECTIONS THROUGHOUT THE FEDERAL REPUBLIC. FINALLY, THE

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GUILLAUME SPY SCANDAL FORCED WILLY BRANDT'S RESIGNATION AND BROUGHT ABOUT THE ACCESSION TO THE CHANCELLORSHIP OF A MORE PRAGMATIC, REFORMERS WOULD SAY A MORE CONSERVATIVE, SOCIAL DEMOCRAT:HELMUT SCHMIDT. TOGETHER THESE FACTORS CREATED AN ATMOSPHERE THAT WAS LESS THAN FRIENDLY TO LEGISLATION DESIGNED TO BRING ABOUT WIDE-RANGING SOCIAL CHANGES IN WEST GERMANY.

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3. TWO FORCES, INTERNAL TO THE GOVERNMENTAL SYSTEM, WERE ALSO TO ACT AS MODERATING INFLUENCES ON REFORM LEGISLATION. WITHIN THE COALITION THE FDP ACTED AS A BRAKE ON GOVERNMENT-SPONSORED REFORM LEGISLATION, SUCH AS THE INDUSTRIAL CO-DETERMINATION BILL OR THE VOCATIONAL TRAINING ACT. THE NECESSITY TO SECURE FDP SUPPORT FOR PASSAGE INFLUENCED THE DRAFTING OF LEGISLATION WITHIN THE COALITION. IF THE PROPOSED LEGISLATION DID NOT SUIT THE LIBERALS, THEY HAD NO QUALMS ABOUT TAKING THEIR DIFFERENCES INTO THE CABINET MEETINGS AND, IF NECESSARY, INTO THE PUBLIC DEBATE. CONSEQUENTLY, THE GOVERNMENT DID NOT OFTEN ATTEMPT TO INTRODUCE LEGISLATION IN THE BUNDESTAG BEFORE THERE WAS AGREEMENT WITHIN THE COALITION.

4. ANOTHER CRITICAL RESTRAINING FACTOR WAS THE EFFECTIVE USE THE OPPOSITION MADE OF THE CDU/CSU MAJORITY IN THE BUNDES RAT. FROM DECEMBER 1972 UNTIL FEBRUARY 1976, THE UNION PARTIES HAD A 21:20 MAJORITY IN THE BUNDES RAT. FOLLOWING THE CHANGE OF GOVERNMENT IN HANNOVER, THE UNION PARTIES' MAJORITY INCREASED TO 26:15.. AFTER FEBRUARY 1976, THE INCREASE IN THE UNION PARTIES' MAJORITY IN THE BUNDES RAT ALSO CHANGED THE COMPOSITION OF THE JOINT CONFERENCE COMMITTEE, SO THAT THE OPPOSITION REPRESENTATION BECAME EQUAL TO THE GOVERNMENT REPRESENTATION. THEREFORE, IN THE CASE OF LAWS REQUIRING BUNDES RAT CONSENT, THE OPPOSITION'S VIEWS HAD TO BE TAKEN INTO ACCOUNT IF THE BILLS WERE TO BECOME LAW.

5. THE RESULT OF INTERNAL RESTRAINTS AND A MORE CONSERVATIVE POLITICAL ATMOSPHERE DID NOT STRANGLE IMPORTANT LEGISLATION. RATHER THESE FORCES INSURED THAT WHAT-EVER IMPORTANT LEGISLATION EMERGED BETWEEN 1972 AND 1976 WAS TOLERABLE TO THE OPPOSITION. OBVIOUSLY, IN THE CASE

OF BILLS THAT DID NOT REQUIRE BUNDESRAT CONSENT (SO-CALLED SIMPLE LAWS), THE GOVERNMENT HAD A FREE HAND ONCE AGREEMENT WAS REACHED WITHIN THE COALITION. MOST BILLS INTRODUCED INTO THE BUNDESTAG AND SENT TO THE BUNDESRAT WERE NOT CONTROVERSIAL AND PASSED THROUGH BOTH HOUSES WITHOUT DIFFICULTY. FOR EXAMPLE, MOST DEFENSE MEASURES RECEIVED WIDE SUPPORT WHICH CROSSED PARTY LIMITED OFFICIAL USE

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LINES. (THE CONSCIENTIOUS OBJECTOR BILL IS AN EXCEPTION.) ANOTHER CASE ARE BILLS WHICH INCREASED SOCIAL SERVICES OR PAYMENTS. THEY WERE THE SUBJECT OF HEATED DEBATE, BUT WHEN THEY CAME UP FOR A FINAL VOTE, DEPUTIES OF ALL PARTIES LACKED THE COURAGE TO VOTE AGAINST THEM.

6. A TOTAL OF 658 BILLS WAS INTRODUCED IN THE 7TH LEGISLATIVE PERIOD OF THE BUNDESTAG. FIVE HUNDRED AND FIFTEEN WERE ENACTED INTO LAW. FOUR HUNDRED AND FIFTY WERE PASSED WITH ALMOST UNANIMOUS APPROVAL. IN ADDITION, 32 WERE PASSED BY MAJORITY, INCLUDING MEMBERS OF ALL THREE FRAKTIONS, AND 33 MORE WERE PASSED AGAINST UNITED CDU/CSU OPPOSITION.

7. NINETY-SIX BILLS WERE SENT TO THE JOINT CONFERENCE COMMITTEE (JCC), OF WHICH 72 EVENTUALLY BECAME LAW. THE JOINT CONFERENCE COMMITTEE WAS UNABLE TO REACH AGREEMENT ON SIX CASES OF IMPORTANT LEGISLATION, AND THREE BILLS WERE REJECTED WITHOUT CONVENING THE JCC. FIVE OF THESE WERE KILLED BY THE BUNDESRAT'S REJECTION AND ONE, THE ABORTION REFORM, WAS REJECTED BY THE BUNDESRAT BUT LATER THE BUNDESTAG OVERRODE THE BUNDESRAT VETO. HOWEVER, THE OPPOSITION CONTESTED THE ABORTION LAW IN THE COURTS AND THE LAW WAS DECLARED UNCONSTITUTIONAL. OTHER KEY BILLS REJECTED BY THE BUNDESRAT, LATER PASSED BY THE BUNDESTAG BUT NOT OVERTURNED BY THE COURTS WERE: THE FRG-CZECHOSLOVAKIA AGREEMENT, A LAW INCREASING CONTRIBUTIONS TO UNEMPLOYMENT INSURANCE AND A LAW REGULATING PRESS CARTELS.

8. THE JOINT CONFERENCE COMMITTEE REACHED AGREEMENT ON A NUMBER OF KEY BILLS DURING THE 7TH LEGISLATIVE PERIOD, WHICH, IN EFFECT, MEANT THAT THE FINAL LAWS REFLECTED THE VIEWS OF THE OPPOSITION. SUCH LAWS INCLUDED: TAX

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REFORM, UNIVERSITY REFORM, A PACKAGE OF SOCIAL REFORMS,
INCLUDING CHANGES IN THE STATUS OF THE FAMILY, DIVORCE
LAW CHANGES, A REDUCTION OF THE AGE OF MAJORITY, AN
INCREASE IN CHILDREN'S ALLOWANCES, PENAL REFORM AND CAR-
TEL REGULATIONS.

9. A NUMBER OF IMPORTANT BILLS WHICH DID NOT REQUIRE
THE CONVENING OF THE JOINT CONFERENCE COMMITTEE WERE
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PASSED BY THE BUNDESTAG AND BUNDES RAT. IN THESE CASES THE BILLS EITHER REFLECTED A BROAD CONSENSUS WHICH CROSSED PARTY LINES, OR COMPROMISES WERE MADE BEFOREHAND, OFTEN IN THE BUNDESTAG COMMITTEES, BEFORE THEY WERE PASSED AND SENT TO THE BUNDES RAT. SUCH LEGISLATION INCLUDED THE FRG-GDR TREATY, FRG MEMBERSHIP IN THE UN, THE POLISH AGREEMENTS, THE NON-PROLIFERATION TREATY, A BILL STANDARDIZING WORK CONDITIONS AND SALARIES FOR CIVIL SERVANTS, AN ENERGY BILL PASSED DURING THE ARAB OIL EMBARGO, AND A GERMAN-FRENCH TREATY OH THE PROSECUTION OF NAZI WAR CRIMINALS.

10. GIVEN THE DIVISION OF CONTROL OVER THE TWO HOUSES OF THE LEGISLATURE IT IS NOT SURPRISING THAT THE CONTROVERSY OVER WHAT LAWS REQUIRE BUNDES RAT CONSENT CONTINUES UNABATED. AT THE PRESENT TIME, FOR EXAMPLE, THERE ARE TWO CASES WHERE SUCH LEGISLATION AWAITS THE FEDERAL PRESIDENT'S SIGNATURE. THEY WERE REJECTED BY THE BUNDES RAT WHICH CLAIMED THEY REQUIRED CONSENT. HOWEVER, THE GOVERNMENT CLAIMS THEY WERE SIMPLE LAWS AND THEY WILL BE SENT TO THE FEDERAL PRESIDENT FOR SIGNATURE. THEY ARE: A BILL CONCERNING CONSCIENTIOUS OBJECTORS AND A VOCATIONAL TRAINING BILL. TECHNICALLY, THE BUNDES RAT PRESIDENT, SPD MINISTER-PRESIDENT OSSWALD, COULD SIGN THESE BILLS INTO LAW ON BEHALF OF VACATIONING FEDERAL PRESIDENT SCHEEL. HE IS UNLIKELY TO DO SO BECAUSE HE WOULD MOST LIKELY CREATE A POLITICAL AND CONSTITUTIONAL CRISIS, AND THE FEDERAL REPUBLIC IS IN THE MIDST OF AN ELECTION CAMPAIGN. IT IS EXPECTED THAT PRESIDENT SCHEEL WILL WITHHOLD A DECISION ON THE BILLS UNTIL AFTER THE OCTOBER 3 ELECTION. IF HE SHOULD SIGN THEM, THE OPPOSITION MOST LIKELY WILL CONTEST THE PROCEDURE IN THE COURTS.

11. APPROXIMATELY 140 BILLS WILL EXPIRE IF NOT ACTED UPON BY THE BUNDESTAG BEFORE MIDNIGHT, DECEMBER 13. MOST OF THESE BILLS ARE MINOR OR DUPLICATE BILLS WHICH HAVE BEEN ENACTED. THERE ARE, HOWEVER, A FEW IMPORTANT BILLS PENDING, SUCH AS REFORM OF NON-STOCKHOLDING CORPORATIONS, A PROTECTION OF PRIVACY BILL AND MODIFICATION OF UN PRIVILEGES AND IMMUNITIES, WHICH WILL BE RE-INTRO-

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DUCTED IN THE 8TH BUNDESTAG.

12. THERE ARE 11 BILLS PENDING WHICH HAVE NOW BEEN REPORTED OUT OF THE JOINT CONFERENCE COMMITTEE. IT IS EXPECTED THAT THERE WILL BE A SPECIAL SESSION OF THE BUNDESTAG BEFORE DECEMBER 13 TO ACT ON THESE BILLS. THE

NEXT SCHEDULED SESSION OF THE BUNDES RAT IS ON OCTOBER 22.
THE BUNDESTAG DEPUTIES WILL HAVE TO TACKLE THE THORNY
PROBLEM OF ALTERING THEIR SALARIES TO CONFORM WITH A
RECENT COURT DECISION REQUIRING THEM TO PAY INCOME TAXES
ON THEIR BUNDESTAG SALARIES. MORE THAN LIKELY THEY WILL
WAIT UNTIL AFTER OCTOBER 3 TO FACE THIS PROBLEM.

13. THE LEGISLATIVE ACCOMPLISHMENTS OF THE 7TH BUNDES-
TAG SHOULD NOT BE UNDERESTIMATED. FAR-REACHING LEGIS-
LATION, SUCH AS INDUSTRIAL CO-DETERMINATION, WAS PUT ON
THE BOOKS. ELECTION YEAR HYPERBOLE ASIDE, THE LEGIS-
LATIVE RECORD OF THE SOCIAL-LIBERAL COALITION WAS
NEITHER "SOCIALISTIC" AS THE RIGHT-WINGERS WOULD HAVE
IT NOR "ANTI-SOCIAL" AS THE LEFT-WINGERS CLAIM. RATHER
THE LAWS ENACTED BY THE 7TH BUNDESTAG WERE MODERATE,
SOCIAL, AND IN TUNE WITH THE MOOD OF THE GERMAN VOTER IN
THE FIRST HALF OF THE 1970'S. SHOULD THE SOCIAL-LIBERAL
COALITION SURVIVE THE OCTOBER 3 ELECTION, IT WILL CER-
TAINLY GOVERN WITH A REDUCED MAJORITY IN THE BUNDESTAG.
THEREFORE, AN AVALANCHE OF NEW SOCIAL LEGISLATION IN
THE 8TH BUNDESTAG IS NOT TO BE EXPECTED.

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